

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY  
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ELECTRONICALLY FILED  
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DATE FILED: 6/10/08

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MERCHANT CASH & CAPITAL L.L.C., :

Plaintiff, :

-against- :

FRIED OKRA, INC. d/b/a THOROUGHBREDS :  
RESTAURANT, THOROUGHBREDS :  
RESTAURANT L.P. & TONY BENNETT, :

Defendants. :

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07 Civ. 10345 (SAS) (AJP)

**ORDER OF DISMISSAL ON CONSENT**

**ANDREW J. PECK, United States Magistrate Judge:**

The parties having informed the Court that they have reached a settlement agreement in principle and are finalizing settlement documents (see attached letter), IT IS HEREBY ORDERED THAT this action is dismissed without prejudice and without costs. Any pending motions are to be terminated as moot.

SO ORDERED.

DATED: New York, New York  
June 10, 2008

  
\_\_\_\_\_  
Andrew J. Peck  
United States Magistrate Judge

Copies by fax & ECF to: Nicholas P. Giuliano, Esq.  
Derek Wolman, Esq.  
Susan M. Smith, Esq.  
Judge Shira A. Scheindlin

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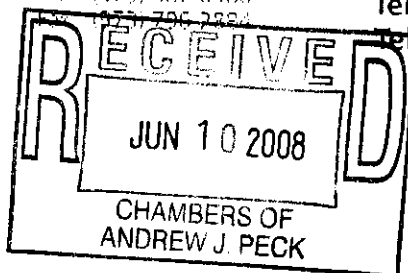
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June 10, 2008

**Via Fax: (212) 805-7933 and ECF**

The Honorable Andrew J. Peck  
United States Magistrate Judge  
Southern District of New York  
Daniel Patrick Moynihan  
United States Courthouse  
500 Pearl Street, Room 1370  
New York, New York 10007

Re: Merchant Cash & Capital, LLC v.  
Fried Okra, et al.  
07 CV 10345 (SAS) (AJP)  
Our File: D735

Dear Judge Peck:

I represent the plaintiff and I write to advise your Honor that this case has been settled.

I spoke with chambers this morning and I was instructed to write to your Honor to request entry of an order dismissing this case without prejudice.

It is my understanding that the conference scheduled for today at 10:30 a.m. is cancelled.

Very truly yours,

A handwritten signature in black ink, appearing to read "Nicholas P. Giuliano".

Nicholas P. Giuliano

/bm

The Honorable Andrew J. Peck  
June 10, 2008  
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cc: Via Fax: (212) 949-7052  
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